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JUL 25 2005

OFFICE OF PETITIONS

In re Application of
Donald A. Stevens
Application No. 10/790,628
Filed: March 1, 2004
Attorney Docket No. 4417-040172

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

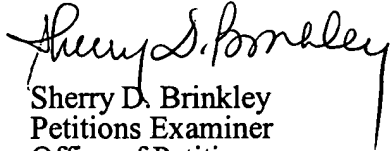
The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed May 24, 2004. A Notice of Abandonment was mailed on February 11, 2005. On May 12, 2005, the present petition was filed, as well as (1) a declaration under 37 CFR 1.63, (2) the basic filing fee, (3) additional claim fees, (4) the surcharge under 37 CFR 1.16(e), and (5) a 4-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the \$795 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed May 12, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

A handwritten signature in cursive script, appearing to read "Sherry D. Brinkley".

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DONALD A. STEVENS
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